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Security Council

Sixty-first year

Provisional

5388th meeting

Thursday, 16 March 2006, 10 a.m.

New York

President:	Mr. Mayoral	(Argentina)
Members:	China	Mr. Li Junhua
	Congo	Mr. Gayama
	Denmark	Ms. Løj
	France	Mr. De La Sablière
	Ghana	Nana Effah-Apenteng
	Greece	Mr. Vassilakis
	Japan	Mr. Oshima
	Peru	Mr. De Rivero
	Qatar	Mr. Al-Nasser
	Russian Federation	Mr. Denisov
	Slovakia	Mr. Burian
	United Kingdom of Great Britain and Northern Ireland	Mr. Thomson
	United Republic of Tanzania	Mr. Manongi
	United States of America	Ms. Sanders

Agenda

The situation in the Middle East

Letter dated 14 March 2006 from the Secretary-General addressed to the President of the Security Council (S/2006/161)

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06-27326 (E)

The meeting was called to order at 10.05 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in the Middle East

Letter dated 14 March 2006 from the Secretary-General addressed to the President of the Security Council (S/2006/161)

The President (*spoke in Spanish*): I should like to inform the Council that I have received letters from the representatives of Lebanon and the Syrian Arab Republic, in which they request to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Assaker (Lebanon) took a seat at the Council table.

The President (*spoke in Spanish*): On behalf of the Council, I welcome His Excellency Mr. Boutros Assaker, Acting Secretary-General of the Lebanese Ministry for Foreign Affairs and Emigrants.

At the invitation of the President, Mr. Mekdad (Syrian Arab Republic) took a seat at the Council table.

The President (*spoke in Spanish*): In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Serge Brammertz, Commissioner of the United Nations International Independent Investigation Commission.

It is so decided.

I invite Mr. Brammertz to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them photocopies of a letter dated 14 March 2006 from the Secretary-General addressed to the President of the Security Council, transmitting the third report of the United Nations International Independent Investigation Commission, which was prepared pursuant to resolutions 1595 (2005), 1636 (2005) and 1644 (2005). The letter and its enclosure will be issued as a document of the Security Council under the symbol S/2006/161.

I now give the floor to Mr. Serge Brammertz, Commissioner of the United Nations International Independent Investigation Commission.

Mr. Brammertz: I would like to thank you, Mr. President, for the opportunity to introduce the third report of the United Nations Independent International Investigation Commission. It provides an update on the progress made in investigating the assassination of former Prime Minister Rafik Hariri and 22 other persons and gives an initial account of the technical assistance extended to the Lebanese authorities' investigations of 14 other cases of alleged terrorist acts. The report also details recent developments in securing very much needed cooperation from Syria.

I assumed my responsibilities as the new Commissioner eight weeks ago. My first priority upon arrival was to address the many concurrent challenges that confronted, and are still confronting, the Commission, namely, its resource needs, ensuring continuity, making progress in the investigation, providing technical assistance to the Lebanese authorities, making progress in obtaining Syria's cooperation and, most of all, managing the very high level of expectations within Lebanon, and outside, that those tasks will be completed quickly.

With regard to organizational needs, when I arrived in Beirut only 6 investigators were left, out of a budgeted number of 48. Most of the departures had occurred since September, in anticipation of the expiration of the Commission's mandate in December. As a result, while working to ensure continuity in the investigation, we are rebuilding the investigative team. As of today, the Commission has 16 staff members in the investigation division, with 21 vacancies remaining.

Finding qualified people with expertise in highly complex criminal and terrorism investigations is a serious ongoing problem. Good people have jobs, are

not available for short-term assignments or are not being released by their organizations. While the mandate's extension for six months has given us some more stability, 15 June is not far in the future. If we do not act now, and if we do not get the medium-term stability we need for our work, the Commission will find itself in a similar situation in just three months from now. We urgently need the Council's support and that of other Member States in quickly identifying and making available qualified investigators.

I would like to thank my colleagues in the International Criminal Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), the International Criminal Court (ICC) and Interpol for the help extended to us on short notice. Discussions are ongoing with Interpol concerning the creation of a roster of experienced investigators and criminal analysts for international deployment. Such a roster would benefit not only the Commission but also any future international inquiry or investigation.

Ensuring continuity in the investigation has been a critical priority since my arrival. Yet it is important to recognize that we are in a new phase of the Commission's work. During its initial three-month mandate, the Commission naturally focused on quickly collecting information in support of, and for further use by, the national judicial authorities. Since the Council's adoption of resolution 1644 (2005), and with the possibility of a tribunal of an international character looming, a more systematic and methodological approach will be essential. We have to make sure that this investigation is conducted with the utmost professionalism and in adherence to recognized standards of international criminal law. Only then will it be accepted and thus provide the basis for a judicial process — possibly before such a tribunal.

In fact, professionalism is reflected not only in the Commission's investment in highly qualified staff but also in its tools. Adequate investigation capacity requires appropriate information and case management, the analytical capability and methodology necessary for a case of such high complexity, legal advice that ensures adherence to the recognized standards of law, readily available in-house expertise in forensics, and adequate capacity to address witness-protection needs.

With that more systematic approach we have made further progress in the investigation into the assassination of former Prime Minister Rafik Hariri and 22 others. We have advanced our understanding of the crime, its circumstances and modus operandi. We have developed new lines of inquiry and pursued and further evaluated existing leads and discarded others. I am optimistic that that progress will provide critical links in identifying and holding accountable those responsible for the crime, at all levels of the chain of command.

While I understand the strong public interest in learning about further details on the status of certain lines of inquiry, we have agreed with the Prosecutor General of Lebanon not to publicly discuss such details at this stage of the proceedings. I firmly believe that that policy is necessary to safeguard the integrity of the ongoing investigation and to avoid revealing our strategy. Bearing in mind the possible establishment of a tribunal of an international character, it is critical that we respect the rights of the defence and not jeopardize the security of witnesses or other sensitive sources.

We have also made progress in implementing the request to provide technical assistance to the Lebanese authorities in their investigations of 14 other cases of a possible terrorist nature. We have completed our first round of evaluations of all cases, and agreed with the Prosecutor General and the investigation judges on what assistance is needed. We have also started to provide, on a case-by-case basis, practical assistance in such areas as forensics and analytical and legal expertise.

However, structural problems within Lebanese law enforcement and judicial systems in coping with the demands of those cases have been apparent. More cooperation and communication among the different Lebanese agencies is necessary, as are more specialized and investigative capability and forensic expertise. If we succeed in addressing those problems swiftly, the investigations into the additional 14 cases could provide valuable links and commonalities among these cases and with the assassination of Rafik Hariri and 22 others.

Investing in technical assistance to the relevant Lebanese authorities is therefore an investment in the Commission's investigation. However, the Commission will not be able to address the broader capacity problems alone. It will be for the international community at large to support the Lebanese authorities

through more in-depth needs assessments and targeted long-term assistance programmes.

Improved and timely cooperation from Syria will be a critical factor in continuing the Commission's work successfully. It was therefore of the utmost importance to achieve clarity with the Syrian authorities about the legal framework for cooperation and access to information, sites and Syrian citizens. By addressing those issues, the Commission can now focus its efforts on the substance of its requests for cooperation from Syria. The understanding reached with the Syrian Foreign Ministry on the practical modalities of our cooperation should be seen against that backdrop. Our expectations vis-à-vis the Syrian authorities are high in that respect. The Commission has already prepared several new requests for cooperation to the Syrian Foreign Ministry. The coming weeks will prove whether our requirements will be fulfilled and our cautious optimism was justified. I will report to the Council on the progress made in that respect in my next report, or earlier if necessary.

Let me conclude by making some general observations.

The management of expectations remains a key challenge. Expectations are very high, sometimes unrealistically so, and differ depending on one's perspective. Therefore, the Commission has to strike a balance between the understandable interest for transparency in its work, on the one hand, and the need to protect the confidentiality of its findings, on the other. At this stage, transparency for us can only mean reporting on working methods and professional standards applied, and revealing in general terms the progress made in the investigation. Confidentiality, on the other hand, requires that we not disclose information on the investigative strategy or harm the rights of the accused. That would inevitably have a negative impact on a later case in court.

We cannot predict the outcome of the investigation. We also cannot guarantee that the investigation will be finalized in a few months, but we will work to ensure that the best possible investigative result is achieved. That will be done by combining professional skills with analytical and forensic expertise, while respecting internationally recognized standards.

Before closing, let me take this opportunity to express my thanks to the Prosecutor General of Lebanon and his staff for the excellent interaction between his office and the Commission. We are aware of the challenges the judiciary is facing in his country and hope that the presence of the Commission in Beirut will contribute to strengthening the Lebanese judicial system.

Let me also express my gratitude to the security and military forces ensuring in Beirut our security around the clock. They are doing an excellent job, and I would like to thank the media in Lebanon and the wider region for respecting the confidentiality of the investigation and thereby facilitating its conduct.

Finally, I wish to thank the Security Council for its support and continued interest in this very important matter.

The President (*spoke in Spanish*): I thank Mr. Brammertz for his briefing.

I now give the floor to Mr. Boutros Assaker, Acting Secretary-General of the Lebanese Ministry for Foreign Affairs and Emigrants.

Mr. Assaker (Lebanon) (*spoke in Arabic*): I wish to congratulate you, Sir, on your assumption of the presidency of the Security Council at a time of sensitive and difficult issues.

I also wish to commend the efforts of your predecessor, and to thank the Security Council and the Secretary-General for their efforts and support following the assassination of Prime Minister Rafik Hariri and his companions.

By the same token, I pay tribute to the United Nations International Independent Investigation Commission (UNIIIC), established by the Council, for its ongoing efforts under the leadership of Mr. Serge Brammertz, whose earnest and high professionalism we appreciate.

We have read with close attention the third report of the UNIIC and welcome the strenuous efforts that were made in preparing it. We also welcome the close cooperation between the Commission and the Lebanese authorities, which will continue in the framework of the Council's resolution. We view with hope the contents of the report reflecting the cooperation of all parties and we call for the continued development of

such cooperation in accordance with the relevant resolutions of the Security Council.

The Security Council is meeting today just as certain decisions of the Lebanese national dialogue have been announced, reflecting the consensus achieved among the Lebanese parties. Those decisions reiterate the resolve of the Lebanese people and their leaders to discover the real truth behind the assassination of Rafik Hariri and his companions, to achieve justice, and to identify and demarcate the remaining Lebanese occupied territories in accordance with the measures and principles adopted and accepted by the United Nations. The participants also expressed their attachment to the establishment of strong relations and parity between Lebanon and the Syrian Arab Republic based on mutual respect for sovereignty and independence.

Revealing the truth behind the murder of Prime Minister Hariri is a priority for Lebanon and the world. All Lebanese also agree to and demand the establishment of an international tribunal to try all those involved in that terrorist crime. The tribunal will, in turn, promote consensus and internal stability in Lebanon.

All are aware that the issue is beginning to assume legal form following the consultative visits and the understanding reached in prior weeks between the authorities concerned within the Secretariat and the Lebanese judicial delegation. The Government of Lebanon hopes that its request for the creation of the tribunal will be favourably received and supported by the Security Council and anticipates that a final formulation regarding the structure and operation of the tribunal will be reached as soon as possible.

Meeting the demands of the Lebanese people to punish those involved in this enormous terrorist crime, whoever they may be and wherever they are to be found, and to unveil the truth behind other murders and attempted assassinations that preceded and followed it — from the attempt against Minister Marwan Hamadi to the assassination of the martyr Gebran Tueni — will strengthen stability in Lebanon and throughout the region. Furthermore, those demands seek the fulfilment of justice and will deter the perpetrators from repeating such terrorist acts, especially in the light of Lebanon's suffering over the years from frequent attempted and successful assassinations. Discovering the truth and holding the perpetrators accountable will do a great service to the future of Lebanon, a country which Prime Minister Rafik Hariri and his companions loved and died for.

The truth will promote the independence and sovereignty of our country. It will also help the Lebanese Government, with the support of its people, to strengthen the foundations of the capable, strong and just State to which all Lebanon aspires.

The President (*spoke in Spanish*): I give the floor to the representative of the Syrian Arab Republic.

Mr. Mekdad (Syrian Arab Republic) (*spoke in Arabic*): Permit me, Sir, to congratulate your friendly country and you personally on your assumption of the presidency of the Council. I wish you every success in conducting the Council's deliberations this month.

By the same token, I welcome the presence of Mr. Serge Brammertz, Commissioner of the United Nations International Independent Investigation Commission (UNIIIC), to present his report. We take note of the contents of the reports and its references to Syria's efforts to cooperate with the Commission in the period under review. I wish to reiterate the assurance of the Government of the Syrian Arab Republic that it will continue its cooperation with the Investigation Commission, since we are keen on revealing the truth behind the crime of assassinating the late former Prime Minister Rafik Hariri.

The report before the Council moves the investigation of the criminal assassination of Mr. Hariri to a new stage, and we hope that this phase will help identify the parties responsible for that crime, as well as for other crimes that occurred in Lebanon. In this regard, we would like to reiterate what we have said on previous occasions, that the most dangerous thing the investigation has faced is the fact that some parties have encroached upon the investigation with a view to reaching preconceived, unsubstantiated evidence.

Permit me to touch briefly on the report before the Council. I wish to make some general observations on it, without delving into substantive details, so as to avoid prejudicing the character of the investigation, which we hope will be impartial, objective, independent and free of political interference.

First, the report refers to the joint understandings between Syria and the Investigation Commission on the legal framework and practical cooperation machinery between the two sides in the framework of

Syria's response to the Commission's requests for assistance. We would like to stress that such joint understandings take into consideration Syrian legal and judiciary jurisdiction and observe the requirements of national sovereignty.

Secondly, Syria has cooperated continuously and completely with the Commission since it began its work. In this connection, the Special Judiciary Commission set up in Syria is ready to cooperate with the International Commission and to respond to all requests presented by it. Syria is of the view that the ability of the Syrian Judiciary Commission to respond to the requests for assistance depends to a great extent on the clarity and accuracy of the requests from UNIIIC and on the need for information relating to some aspects of the investigation concerning Syria.

Thirdly, the report refers to cooperation between Syria and the Commission in terms of Syria's response to the requests made by the Commission in submitting information and documents. We would like to emphasize before this Council that Syria continues to make efforts in this connection.

Fourthly, it has become clear that a number of witnesses appearing before the Commission made false allegations in order to mislead the investigation and to lead it to conclusions based on known political biases. We hope that the Commission will avoid any such tendency under the new leadership.

Fifthly, we hope that the Commission will follow the new leads referred to in the current report. We would like to emphasize that Council resolution 1595 (2005) calls upon all States to cooperate with the Commission to help identify the truth regarding the assassination of the late Rafik Hariri.

Sixthly, we note with satisfaction that the confidentiality of the investigation has been handled very professionally. We welcome this, and we emphasize the need for this professionalism to continue.

In conclusion, we would like to draw the attention of the Security Council to the gravity of attempts by some circles to utilize the cooperation between Syria and UNIIIC to abuse Syria's intentions in order to achieve special goals. We would like to state that our cooperation is based on revealing the unassailable truth, this being part and parcel of our interests.

The President (*spoke in Spanish*): In accordance with the understanding reached in the Council's prior consultations, I should now like to invite Council members to informal consultations to continue our discussion on the subject.

The meeting rose at 10.40 a.m.